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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,418	12/19/2001	Petrus Paulus Waanders	ACD 2847 US	2525

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Richard P. Fennelly
Akzo Nobel Inc.
7 Livingstone Avenue
Dobbs Ferry, NY 10522-3408

EXAMINER

TESKIN, FRED M

ART UNIT

PAPER NUMBER

1713

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/026,418

Applicant(s)
Waanders, et al.

Examiner
Fred Teskin

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1713



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11, and 12 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 7 6) ☐ Other:

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1. The preliminary amendment of December 19, 2001 has been entered in full. Claims 1-8, 11 and 12 are currently pending and under examination.

2. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which papers have been placed of record in the file.

3. The disclosure is objected to because of the following informalities: at page 8, "fulfil[1]" is misspelled in lines 4 and 7; and the words "can" and "it" are transposed in line 5.

4. Claims 1-8, 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the following grounds for indefiniteness apply to the indicated claims.

(A) Claim 1 is indefinite due to improper Markush language, i.e., the presence of the open "including" language renders the scope of the group indeterminate and/or introduces superfluous, and thus nonessential, subject matter. On this latter point, the particular derivatives introduced by the "including" language appear to be fully embraced by the "peroxyesters" and "peroxycarbonates" earlier recited. Appropriate correction, as by

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deleting the "including" clauses and making the peroxy derivatives the subject of dependent claims, is suggested.

(B) Claim 1 also is indefinite due to lack of proper claim antecedent for "the polymerisation process", recited in line 13.

(C) Claim 5 is indefinite due to improper Markush language in the recitation "selected from the group of ...". "Selected from the group consisting of ..." is proper; see MPEP 2173.05(h) and cf., claim 6, line 2.

(D) Claim 6 is inaccurate due to a typographical error: "undecen[e]" is misspelled.

(E) Claim 8 is ambiguous in the recitation of "preferably bis(3,3,5-trimethylhexanoyl)peroxide". The ambiguity arises from the recitation of broad and narrow statements of the same subject matter in the same claim. Thus the broad language "diacylperoxides," followed by linking term "preferably" and then a specific species within the broad language is considered to create indefiniteness since the resulting claim does not clearly set forth the metes and bounds of the protection desired.

5. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure.

Priddy et al is cited to show the use of (co)oligomers of styrene as phlegmatizers of organic peroxides in the polymerization

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of olefinically unsaturated monomers. Praskach is cited to show stable, free flowing peroxide compositions containing, *inter alia*, 2-30 wt % of an inert particulate polyolefin.

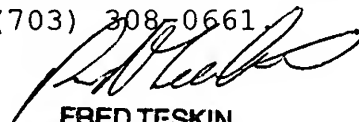
6. Claims 1-8, 11 and 12 are deemed to avoid the prior art of record. Filling a container having a size greater than 1 liter with a peroxide formulation containing a phlegmatizer(s) as defined in claim 1 hereof, and the use thereof in a free radical polymerization process, is not disclosed nor fairly suggested by the prior art considered to date.

7. Any inquiry concerning this communication should be directed to Examiner F. M. Teskin whose telephone number is (703) 308-2456. The examiner can normally be reached on Monday through Thursday from 7:00 AM - 4:30 PM, and can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (703) 308-2450. The appropriate fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 (non-after finals) and (703) 872-9311 (after-finals).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

FMTeskin/03-11-03


FRED TESKIN
PRIMARY EXAMINER
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